

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

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FILE: B-217115

DATE: April 1, 1985

MATTER OF: Permutit Company, Inc.

DIGEST:

1. In reviewing the propriety of contract awards made by grantees, GAO will examine whether the procurement was conducted in a manner consistent with the fundamental principles of federal procurement inherent in the concept of competition. These principles include the requirement that where required descriptive literature does not show conformity to the solicitation requirements in all material respects, the bid must be rejected as nonresponsive.
2. Allegation that awardee's bid was nonresponsive is without merit where protester has not clearly shown that the agency's technical determination that the required descriptive literature submitted by the awardee indicated conformity to the material requirements of the solicitation was unreasonable.

Permutit Company, Inc. complains that the Arab Republic of Egypt has improperly awarded a contract to Graver Water Company under invitation for bids (IFB) No. DSF-MLG/55-84/ARE, issued by Egypt for the supply of demineralization water treatment units. This procurement was financed under an Agency for International Development (AID) grant. ^{1/} Permutit contends that Graver was ineligible for award under the solicitation because its bid was nonresponsive to the specifications. We deny the complaint.

^{1/} Effective with complaints filed January 29, 1985, we no longer review complaints concerning the award of contracts under grants. See 50 Fed. Reg. 3978 (1985); see also The George Sollitt Construction Co., B-218101, Feb. 6, 1985, 64 Comp. Gen. _____, 85-1 C.P.D. ¶ _____. We review this complaint since it was filed prior to January 29.

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The solicitation requested bids for the supply of water treatment units for the removal of iron and manganese from artesian well water in rural areas in Egypt so as to produce drinking water. In order to determine whether the product offered conformed to the specifications, bidders were required to submit with their bids current and complete descriptive literature describing the product offered. Bidders were warned that failure to submit the literature or to fully and adequately explain how the product offered would meet the specifications despite apparent discrepancies between the specifications and the description of the product would render the bid nonresponsive.

Permutit alleges that the water treatment units offered by Graver were nonresponsive to the specifications in three respects.

Permutit initially contends that Graver offered pressure filter vessels to be shipped with unassembled, flanged face piping and valves, thus allegedly failing to conform to the requirement in the solicitation that:

"All units shall be supplied in factory assembled skid mounted sections requiring barest minimum of field installation time and labor. Connecting the various sections of the unit shall require field bolting only."

Permutit contrasts the filters Graver promised to supply with those Permutit offered, that is "pressure filters individually mounted on a structural steel skid, with face piping and valves shipped assembled."

In response, contracting authorities cite that portion of Graver's bid in which it indicated that "components shall be supplied prefabricated and ready for easy installation or assembly on a flat concrete foundation," and conclude that Graver satisfied the requirement for offering units needing only minimal field installation.

In reviewing the propriety of contract awards made by grantees, we have examined whether the procurement was conducted in a manner consistent with the fundamental principles of federal procurement inherent in the concept of competition. One basic principle is that a bid which does not conform to the solicitation requirements in all

material respects must be rejected as nonresponsive. See Rapsco Wholesale Distributors and Arvin Industries, Inc., B-213798, June 12, 1984, 84-1 C.P.D. ¶ 622; A. Metz, Inc., B-213518, Apr. 6, 1984, 84-1 C.P.D. ¶ 386.

When descriptive literature is required by an IFB to be submitted with bids for use in bid evaluations, the adequacy of the literature in showing product compliance with the specifications is a matter of responsiveness. Thus, where the literature does not show compliance, the bid must be rejected as nonresponsive. See Washex Machinery Corp., B-214591.2, Sept. 25, 1984, 84-2 C.P.D. ¶ 352; Computer Sciences Corp., B-213134, May 14, 1984, 84-1 C.P.D. ¶ 518.

The determination of the technical adequacy of bids, based on the submission of descriptive literature, essentially involves a technical evaluation. Accordingly, in keeping with our basic standard of review of technical evaluations, we will not disturb the determinations of the technical evaluators concerning the adequacy of the technical data absent a clear showing of unreasonableness, an arbitrary abuse of discretion or a violation of procurement statutes and regulations. See Washex Machinery Corp., B-214591.2, supra, 84-2 C.P.D. ¶ 352 at 6; Computer Sciences Corp., B-213134, supra, 84-1 C.P.D. ¶ 518 at 3.

Permutit has failed clearly to show that contracting authorities acted unreasonably in concluding that the technical data submitted by Graver demonstrated that its pressure filters would require only minimal field installation. While Graver's bid included references to a concrete foundation and flanged piping, Graver described its units as "prefabricated," and as "shop-assembled skid mounted equipment," with the pressure filter modules "completely assembled." We also note that contracting authorities appear to have envisioned the possibility that the water treatment units might require foundations, since they requested bidders to describe the "Foundation requirements" for their equipment.

Permutit further alleges that the transfer pumps offered by Graver do not conform to the solicitation requirement for "[i]n-line, centrifugal and electrically driven [transfer] pumps," with the electric pump motors mounted on vertical motor supports. Permutit contends that Graver only offered "ordinary," horizontal centrifugal

pumps, not "in-line" pumps whose suction and discharge connections are on the "same vertical and horizontal plane," and that the motors for Graver's pumps could not be mounted vertically.

Our examination of Graver's bid provides us with no basis to question the determination of contracting authorities that Graver's bid was responsive to the above requirement. On the contrary, we note that Graver has specifically indicated in its bid that it will furnish "in-line centrifugal process pumps" with the motors mounted on vertical motor supports. The descriptive literature for the model Graver offered in fact distinguishes that model from a different, "Horizontal Process" pump model manufactured by the same company.

Nor do we believe that Permutit has carried its burden of clearly demonstrating that, contrary to the determination of contracting authorities and the requirement of the solicitation, Graver offered butterfly valves which did not conform to AWWA (presumably the American Water Works Association) standards. As pointed out in the agency report, Graver indicated that the butterfly valves it offered met AWWA standards. Moreover, the descriptive literature for the model offered by Graver described the valves as in "Full AWWA Compliance."

In conclusion, we believe the complaint to be without merit.

for *Harry R. Van Cleave*
Comptroller General
of the United States